

NYANDENI LOCAL MUNICIPALITY

2017/18



CREDIT CONTROL AND DEBT COLLECTION POLICY

1. PREAMBLE

Section 152 (1) (b) of the Constitution of the Republic of South Africa Act 108 of 1996 (*'the Constitution'*) provides that one of the objects of local government is to ensure that the provision of services to communities occurs in a sustainable manner;

Section 153 (a) of the Constitution provides that a municipality must structure its administration, budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community;

Section 4 (1) (c) of the Local Government: Municipal Systems Act 33 of 2000 (*'the Systems Act'*) provides that the Council of a municipality has the right to finance the affairs of the municipality by charging fees for services, imposing surcharges on fees, rates on property and, to the extent authorised by national legislation, other taxes, levies and duties;

AND WHEREAS section 5 (1) (g), read with subsection (2) (b), of the Systems Act provides that members of the local community have the right to have access to municipal services which the municipality provides provided that, where applicable and subject to the policy for indigent debtors, pay promptly for services fees, surcharges on fees, other taxes, levies and duties imposed by the municipality;

AND WHEREAS section 6 (2) (c), (e) and (f) of the Systems Act provides that the administration of a municipality must take measures to prevent corruption; give members of a local community full and accurate information about the level and standard of municipal services that they are entitled to receive; and inform the *local* community about how the municipality is managed, of the costs involved and the persons in charge;

AND WHEREAS Chapter 9, sections 95, 96, 97, 98, 99 and 100, of the Systems Act provides for Customer Care Management, Debt Collection responsibility of the Municipality, contents of the policy, by-laws that give effect to the policy, Supervisory authority and Implementing authority.

2. DEFINITIONS

For the purpose of this policy, the wording or any expression has the same meaning as contained in the Act, except where clearly indicated otherwise and means the following:

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| "Act" | The Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) as amended from time to time; |
| "Arrangement" | A written agreement entered into between the Council and the debtor where specific repayment parameters are agreed to. |
| "Arrears" | Means those rates and service charges that have not been paid by the due date and for which no arrangement has been made. |
| "Authorized Representative" | Person or institution legally appointed by the Council to act or to fulfil a duty on its behalf; |
| "CFO" | Person appointed as the Chief Financial Officer of the Municipality, or his or her nominee. |
| "Council" | The municipal council, as referred to in section 157 of the Constitution of the Republic of South Africa Act 108 of 1996, of the Nyandeni Local Municipality established by part 7 of provincial notice 80, dated 27 September 2000; |
| "Credit Control" | All the functions relating to the collection of monies owed by ratepayers and the users of municipal services. |
| "customer" | Any occupier of any premises to which Council has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the municipality; |

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| <i>"defaulter"</i> | Any Person who owing the Council arrear monies in respect of rates and / or service charges; |
| <i>"interest"</i> | A charge levied with the same legal priority as service fees and calculated at a rate determined by council from time to time on all arrear monies; |
| <i>"municipal account"</i> | An account rendered specifying charges for services and or goods provided by the municipality, or any authorised and contracted service provider, and/or assessment rates levied; |
| <i>"Municipality"</i> | Means the Nyandeni Local Municipality; |
| <i>"Municipal Manager"</i> | The person appointed as Municipal Manager in terms of section 82 of the Local Government: Structures Act. 1998, (Act 117 of 1998) and include any person acting in that position or to whom authority was delegated; |
| <i>"municipal services"</i> | Those services provided by the municipality, such as, refuse removal for which service charges are levied; |
| <i>"occupier"</i> | Any person who occupies any property or part thereof, without regard to the title under which he or she occupies the property, |
| <i>"owner"</i> - | (a) The person in whom from time to time is vested the legal title to premises; (b) In a case where the person in whom the legal title is vested is insolvent or deceased, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative; |

- (c) In a case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit from such premises or from any improvement thereon;
- (d) In the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) In relation to-
 - i. A piece of land delineated on a sectional plan registered in terms of the Sectional Title Act 1986, (Act 95 of 1986), and without restricting the above to the developer or the body corporate in respect of the common property; or
 - ii. A section as defined in such Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (f) Any legal person including but not limited to-
 - i. A company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a trust, a closed corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984) and a voluntary association;
 - ii. Any department of State;
 - iii. Any Council or Board established in terms of any legislation applicable to the Republic of South Africa;
 - iv. Any Embassy or other foreign entity;

"premises"

Includes any piece of land, the external surface boundaries of which are delineated on-

- a) A general plan or diagram registered in terms of the Land Survey Act, 1927 (9 of 1927), or in terms of the Deed Registry Act. 1937 (47 of 1937); or
- b) A sectional plan registered in terms of the Sectional Titles Act, 1986 (95 of 1986), which is situated within the area of jurisdiction of the Council;

"rate or rates" – means a municipal rate on property as envisaged in Section 229 of the Constitution.

“property rates act”- means the Local Government : Property Rates Act, 6 of 2004

3. OBJECTIVES OF THE POLICY

This policy serves to assist management and officials of Nyandeni Local Municipality to implement and maintain consistent, efficient and effective controls over their revenue receiving or income department in order to achieve and maintain high levels of revenue collection.

The objectives of this policy therefore are to:-

- ensure that all money due and payable to Nyandeni Local Municipality in respect of rates, fees for services, surcharges on such fees, charges, tariffs, interest which has accrued on any amounts due and any collection charges are collected efficiently and promptly;
- provide for credit control procedures and mechanisms and debt collection procedures and mechanisms;
- Provide for indigent debtors;
- Provide for the setting of realistic targets consistent with generally recognised practices and collection ratios and also the estimates of income set in the annual budget of Nyandeni Local Municipality
- Provide for interest on overdue accounts;
- Provide for collection charges on the payment of any overdue amount;
- Provide for extension of time for the payment of overdue amounts;
- subject to the principles provided for in this Policy, use innovative, cost effective, effective, efficient and appropriate methods to collect as much of the debt in the shortest possible time without any interference in the process;
- promote a culture of good payment habits amongst debtors and instil a sense of responsibility towards the payment of accounts and reducing municipal debt;
- effectively and efficient deal with defaulters in accordance with the terms and conditions of this policy

4. PRINCIPLES

The following principles should be considered;

- Enforcement of this policy is a local matter only to relevant legislation
- Credit control and debt collection policy must be understandable, uniform and implemented with equity, fairness and consistency;
- This policy must be effective, efficient and economical
- Billing must be accurate, timeous and understandable
- Debt and arrangements to repay debt will be treated holistically, but different repayment periods or methods may be determined for different types of services, debtors or arrears within the general rule that the repayment should take into consideration the financial capacity of the debtor.
- The consumers are entitled to reasonable access to pay points and to a variety of reliable payment methods
- The consumers are entitled to efficient, effective and reasonable responses to enquiries and appeals, and should suffer no disadvantages during the process of such request
- Debtors may be referred to 3rd party debt collection agencies and may be placed on the National Credit Rating List
- If an account is not paid by the due date, interest will be charged on overdue accounts
- All legal costs, including attorney and own client costs incurred in the recovery of arrears, shall be levied against the debtors account
- Consumers that meet the council's indigent criteria must be identified and supported.
- Debtors found to have misrepresented themselves in order to benefit from any of the Municipality's relief or any benefit will be deemed to have committed an offence and remedial measures will be taken in a manner as determined by the Council from time to time, and all relief or benefits that have been received, will be reversed

5. DUTIES AND FUNCTIONS

5.1 Duties and Functions of Council

- To approve a budget consistent with the needs of communities, ratepayers and residents.
- To impose rates and taxes and to determine service charges, fees and penalties to finance the budget.
- To revise the budget should Council's targets for credit control and debt collection not be met.
- To delegate the required authorities to monitor and execute the credit control and debt collection policy to the Mayor and Municipal Manager and Service Provider respectively.
- To provide sufficient capacity in the Municipality's Financial Department for credit control and debt collection, alternatively to appoint a Service Provider, or debt collection agent.
- To assist the Municipal Manager in the execution of his duties, if and when required.

5.2 Duties and Functions of the Municipal Manager

- To implement good customer care management systems.
- To implement council's credit control and debt collection policy.
- To install and maintain an appropriate accounting system.
- To demand payment on due dates.
- To determine credit control and debt collection measures.
- To set performance targets for staff.
- To appoint staff to execute council's policy and by-laws in accordance with council's staff policy.
- To monitor contracts with service providers in connection with credit control and debt collection.
- To report to the Mayor.

5.3 Duties and Functions of Communities, Ratepayers and Residents

- To fulfil certain responsibilities, as brought about by the privilege and or right to use and enjoy public facilities and municipal services.
- To pay service fees, rates on property and other taxes, levies and duties imposed by the municipality.
- To allow municipal officials access to their property to execute municipal functions at a time that is agreeable by the consumer and municipal officials.
- To comply with the by-laws and other legislation of the municipality.

6. AREA OF APPLICATION

The policy applies throughout the area of Nyandeni Local Municipality

7. ACCOUNTS AND BILLING

- Customers will receive one consolidated bill for all services to a property, which is situated within the boundaries of the Municipality.
- An account will be rendered each month in cycles of approximately 30 days.
- The Municipality will undertake to have the accounts delivered to all consumers. However non-receipt of an account does not prevent interest charges and debt collection procedures.
- In the event of non-receipt of an account, the onus rests on the account holder to obtain a free copy of the account, before the due date.
- Accounts must be paid on the due date as indicated on the account.
- Interest on arrears will accrue after due date if the account remains unpaid irrespective of the reason for non-payment.
- Payments for accounts must be received on or before the due date at a Municipal pay-point by the close of business. In the case of any electronic payments or payments via agents, the money must be received in the municipal bank account on or before the due date and not later than the close of Business.

- Consumers will be notified of their unpaid accounts prior to the commencement of the debt collection process and/or notices will be included in the monthly statement.
- Non-payment of the account will result in debt collection actions.

7. CREDIT CONTROL PROCEDURE

The following provisions apply to rates and services:

- Monthly accounts will be issued to all property owners/consumers.
- All subdivided properties that are not registered at the deeds office will be billed to the main owner until a clear sale agreement with clear ownership details of the new owner have been submitted.
- Also, for the Municipality to bill tenants instead of the owner, a clear lease agreement must be submitted to the Municipality .
- These charges shall be payable within 14 days after the last day of each month in which such account was rendered.
- Interest will be raised on payments received after the due date **at a rate of 10 %**.
- The interest will be calculated on monthly basis.
- All debtor accounts that are outstanding for a period exceeding 30 days shall be handed over to a debt collector.

8. TRANSFER OF PROPERTY

- In the event of a transfer of property as a result of a sale, donation or any other form, the monies due on the property shall be settled in full.
- In addition estimated monies that will be due to the property for rates and refuse for a period of 3 months preceding the month in which the account is being settled shall also be paid.
- The latter, will cover the debt that will accumulate during the period of transfer.
- Clearance certificate shall only be issued if the current debt is cleared and payment for the 3 months following the month of the application is made.

9. ARRANGEMENT FOR PAYMENT OF ARREAR ACCOUNTS

The Municipal Manager shall have discretionary power to allowing a defaulting account holder to make arrangements for the payment of arrear account/s.

- if the overdue amount is outstanding for longer than 12 months, a minimum down-payment of 50% shall be payable and the repayment period shall not exceed 12 months.
- If the overdue balance is outstanding for less than 12 months, a minimum down-payment of 25% is required and the balance to be paid over a period not exceeding 6 months.
- All future current accounts must be paid on the due date.
- If a debtor fails to comply with the terms of any agreement providing for an extension of time for payment, then the total of all amounts due including interest and cost shall immediately become payable without further notice to the debtor and such account shall be handed over to debt collectors.
- If a debtor fails to comply with the terms of any agreement providing for an extension of time for payment, then the total of all amounts due including interest and cost shall immediately become payable without further notice to the debtor and such account shall be handed over to debt collectors.
- Customers who are indebted to the municipality for rates and services and wish to submit building plans for approval will first have to make an arrangement to pay off their arrears before such plans can be approved.

10. ENQUIRIES AND APPEALS

- Any resident or consumer who may feel aggrieved concerning his/her account may address a grievance / appeal to the Municipal Manager or Chief Financial .
- A customer who has lodged an enquiry is not relieved of the responsibility to maintain regular payment of the account. An interim payment similar to the average account must be paid by the due date pending finalisation of the enquiry.

- Failure to make a payment will result in debt collection action been instituted against the customer.
- Depending on the nature of the enquiry and the resources available, the enquiry must receive a response within 10 days.
- If a customer has received a response and is still not convinced on the outcome, the customer may again approach the Municipal Manager in writing.
- If it is discovered that the consumer is correct, the account of the consumer shall be credited accordingly

11. Procedures for irrecoverable accounts

- In cases where all avenues, as contained on this policy, have been exhausted to collect the outstanding amounts, an assessment shall be made by the Chief Financial Officer of whether the provisions contained in the bad debts policy are applicable to classify the debt as irrecoverable.
- Bad debts policy shall be applicable to accounts classified as irrecoverable.

12. Incentive Scheme

- The Council shall consider offering incentives to debtors who are considered to be good payers.
- The Council reserves the right to determine good payers and the criteria to be used shall be determined by the Council and shall change from time-to time.
- The time and frequency of awarding the good payers shall be determined by the Council.
- The Council reserves the right to cancel the incentive schemes when it is deemed necessary

13. MUNICIPAL EMPLOYEES AND COUNCILLORS ARREARS

- Section 10 of Schedule 2 of the Systems Act states that “a staff member of a municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months, and a municipality may deduct any outstanding amounts from the staff member’s salary after this period.”
- Section 12A of Schedule 1,of the Systems Act states that “a Councillor of the Municipality may not be more than 3 months in arrears for municipal services fees, surcharges fees on fees, rates or any other municipal taxes, levies and duties levied by the Municipality.
- Notwithstanding any other procedure, method or action that may be taken in terms of this policy, the Municipal Manager shall deduct any outstanding amount from such Councillor’s remuneration after this 3 month period has elapsed.
- The Municipal Manager shall notify the affected official/Councillor in writing of the steps that the Municipality will take to recover the debt.

14. CUSTOMER CARE

- The Municipality shall establish a customer care unit that will deal with all consumer queries.
- A dedicated official may be appointed as a customer care official.
- Consumers shall be notified of the customer care unit and the channels of accessing the unit.

15. COMMUNICATION PROCESS

- This policy shall be published onto the Municipality’s website.
- This policy shall be presented to the community in the ratepayers meetings
- The municipality will at its own cost make the Credit Control and Debt Collection policy brochure available to the community. Any amendments may be communicated in a newsletter from time to time.

16. REVIEW OF THE POLICY

This Credit Control and Debt Collection Policy shall be reviewed on an annual basis.

This policy is effective immediately after its adoption BY THE Council of Nyandeni Local Municipality.

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